

EXHIBIT 11

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17 OTO ANALYTICS, INC. d/b/a WOMPLY

18 JAMS Arbitration

19 OTO ANALYTICS, INC. d/b/a WOMPLY,

Ref. No. 1210038203

20 Claimant and Counter-
21 Respondent,

DECLARATION OF TOBY SCAMMELL

22 v.

23 BENWORTH CAPITAL PARTNERS, LLC

24 Respondent and Counter-
25 Claimant.

DECLARATION OF TOBY SCAMMELL

I, Toby Scammell, declare as follows:

1. I am the Chief Executive Officer and founder of Oto Analytics, Inc. d/b/a Womply (“Womply”). I provide this declaration to provide information and background about Womply and Womply’s relationship with Benworth Capital Partners, LLC (“Benworth”). This declaration is based upon my personal knowledge, and I would be competent to testify to the following facts if called upon to do so.

Womply’s Background

1. I founded Womply in 2011 to help small businesses that are underserved by technology. I graduated from the University of Southern California in 2006 with a bachelor’s degree in international relations with an emphasis in global business. I have over 15 years of experience working in business, startups, and management consulting.

2. Womply began as a commerce platform for small businesses. It provided marketing and financial tools to facilitate reputation management, email marketing, business intelligence, and customer relationship management to more than 500,000 small businesses and their customers. Womply has over ten years of investment in small business data technology, including identifying and onboarding small businesses efficiently, and leveraging unique data to market to small businesses.

3. In March 2020, in response to the COVID-19 pandemic, Congress enacted the Paycheck Protection Program (“PPP”), which allowed qualifying small businesses to obtain government-guaranteed loans from private lenders to cover expenses such as payroll, rent, and utilities. These loans were forgivable if certain conditions were met. The United States Small Business Administration (“SBA”) administered the PPP, paid lenders processing fees for each approved PPP loan, and guaranteed PPP loans.

4. In April 2020, Womply launched a website that helped small businesses understand the PPP program. This site allowed borrowers to enter their business details and then matched them with one or more lenders that could accept their PPP loan application for free. Womply received referral fees from lenders for these referrals. Unfortunately, many of the small businesses that

1 Womply referred were not able to get loans because lenders lacked the technology tools necessary
2 to accept, process, manage, and fund loans at large scale.

3 5. Womply's experience was not unique and, despite the incentives provided to lenders by
4 the PPP, many small businesses were unable to obtain PPP loans. Larger lenders that participated
5 in the PPP focused their lending on larger loans in order to maximize their fees, which were based
6 on the size of the loan, and on loans to existing customers.¹ Many smaller lenders that participated
7 in or sought to participate in the PPP did not have sufficient experience, personnel, or technological
8 capabilities needed to process, manage, and track a large volume of modestly sized loans for small
9 businesses.

10 6. In November 2020, Womply acquired Insurgent, Inc. d/b/a FundRocket ("FundRocket")
11 for approximately \$15 million in stock, and obtained its technology platform and personnel who
12 had expertise in loan file management, small business data analysis, and fraud detection.

13 7. In December 2020, Congress passed legislation that included a new round of PPP
14 funding. In order to encourage lenders to serve the smallest businesses that had had difficulty
15 getting PPP loans, this legislation increased the fees lenders would receive on small loans, *i.e.*,
16 loans of \$50,000 or less. Nevertheless, small businesses still struggled to obtain PPP loans,
17 because increasing fees for lenders did not address the logistical difficulties of providing a large
18 volume of loans.

19 8. In January 2021, Womply relaunched its website through which potential borrowers
20 seeking PPP loans could enter their own information and find a matching lender that was willing
21 to accept their PPP loan application for free. Womply routed the applicants to the lenders based
22 on the lenders' instructions regarding the types of loans they would fund. Womply's website made
23 clear to borrowers that Womply was not a lender and was not itself providing PPP loans.²

24 9. After Womply directed a small business to a PPP lender partner, that lender was
25 responsible for collecting additional information and supporting documentation from the
26

27 ¹ See SBA Office of Inspector General, "Inspection of SBA's Implementation of the Paycheck
28 Protection Program," Report 21-07 (Jan. 14, 2021), *available at* <https://www.sba.gov/sites/default/files/2021-01/SBA%20OIG%20Report-21-07.pdf>.

² <https://womply.com/ppp> (last accessed Nov. 17, 2022).

1 applicant, performing any Know Your Customer (“KYC”) and anti-fraud checks the lender chose
2 to perform, verifying applicant information, deciding whether to fund the loan, having a PPP loan
3 application and promissory note completed and executed, organizing and maintaining the loan file,
4 and processing, managing, and tracking the Womply-referred PPP loan and all other PPP loans the
5 lender funded.

6 10. For providing this limited referral service (“Non-Fast Lane”), Womply’s lender
7 partners agreed to pay Womply referral fees pursuant to negotiated agreements. Womply did not
8 provide these lender partners with technology services in connection with these referrals. Womply
9 did not charge prospective applicants or borrowers any fees. Benworth did not participate in Non-
10 Fast Lane.

11 11. In January and February 2021, Womply sought to partner with larger financial
12 companies to help the smallest businesses get PPP loans, including Intuit, Capital One, PayPal,
13 American Express, Square, and H&R Block. These companies refused to do so. As a result,
14 Womply decided to develop its own technology platform and raised tens of millions of dollars in
15 emergency financing to support PPP operations.

16 12. Womply leveraged its existing commerce platform and small business expertise,
17 plus the technology and team acquired through FundRocket, to develop a technology platform that
18 would substantially reduce these structural barriers that prevented small businesses from obtaining
19 PPP loans. Those efforts required Womply to invest substantial amounts of time and money
20 without any guarantee that the initiative would be commercially successful.

21 **Womply’s Technology Platform**

22 13. Before February 2021, applicants for PPP loans entered basic information on
23 Womply’s borrower facing website. Womply provided this information to lenders and platforms
24 using a lender-provided referral link.

25 14. In late February 2021, Womply released “PPP Fast Lane,” a technology platform
26 that allowed small businesses to submit more extensive information and supporting documentation
27 through a borrower-facing website to apply for a PPP loan for free and allowed lenders to
28 efficiently process, manage, and track their PPP loans, particularly the smaller PPP loans to the

1 smallest businesses (the “Technology Platform” or “Fast Lane”).

2 15. Womply’s Technology Platform was a major advancement compared to the initial
3 website Womply developed to provide limited referral services in the first round of PPP in 2020.
4 The Technology Platform had three main components: (i) a user-friendly, borrower-facing website
5 through which small businesses could submit information and documentation to apply for a PPP
6 loan for free; (ii) integrated technology services and application program interfaces (“APIs”)—a
7 type of software code that allows data to be transferred—which evolved over time and ultimately
8 included services from more than ten third-party technology service providers; and (iii) a lender-
9 facing portal through which lenders could manage the entire PPP loan process.

10 16. **First**, the borrower-facing website allowed a prospective applicant to enter the
11 information necessary to populate the SBA-required application form for a PPP loan and provide
12 the documentation or information lenders used to evaluate each application. Applicants continued
13 to have access to the Fast Lane borrower-facing website after submitting their documentation and
14 information, which allowed the applicants to, among other things, monitor the status of their
15 applications and securely provide additional information to lenders. Womply did not charge
16 prospective applicants or borrowers any fees.

17 17. Womply also provided customer service to applicants seeking assistance in
18 connection with the Fast Lane borrower-facing website. For example, Womply provided FAQs;
19 multiple language translations of the PPP rules; multilingual support; and additional support and
20 information services via live chat, email, LinkedIn, Twitter, Facebook, and Instagram.

21 18. **Second**, the technology services integrated into the Technology Platform
22 performed various services for lenders regarding the information provided by applicants. Womply
23 supported these tools through its own personnel and technology. For example, the Technology
24 Platform:

- 25 a. checked the validity of an applicant-provided email address using the third-
26 party application Kickbox;
- 27 b. verified an applicant’s access to the applicant’s email address and mobile
28 telephone number using third-party applications SendGrid and Twilio;
- c. performed biometric selfie scans using third-party application Persona to
confirm that the applicant submitted a selfie of an actual human;

- d. checked applicant information against various databases to confirm identity using Persona;
- e. checked applicant information against various databases to identify potential red flags—such as individuals subject to OFAC sanctions and politically exposed persons—using Persona;
- f. verified government identification provided by applicants using Persona;
- g. extracted bank account information and transaction history using third-party application Plaid;
- h. performed knowledge-based authentication using third-party application DocuSign;
- i. classified tax documents provided by applicants using third-party application Mindee;
- j. extracted information from tax documents provided by applicants using third-party application Oculous; and
- k. scanned bank and tax documents provided by applicants to identify potential fraud using third-party applications Oculous and Inscribe.³

19. After performing these various technology services, Womply routed loan applicants to a PPP lender based on a variety of factors.

20. **Third**, the Technology Platform also included a new lender-facing portal, which Womply developed in conjunction with 3E Software, Inc. d/b/a Teslar Software and other third parties. The lender-facing portal (the “Teslar Portal”) was a web-based portal that allowed lenders to efficiently manage nearly the entire process of processing, reviewing, and managing PPP loans referred to the lender. Through the Teslar Portal, PPP lenders could, among other things:

- a. review applicant information and documentation so that the lender could determine whether an applicant qualified for a PPP loan and the amount of the loan;
- b. review KYC detail reports, proof-of-in-business reports, tax document reports, and funding instructions;

³ Womply added technology services at different points in time and each technology service did not necessarily apply to all applications at any given time.

- c. approve PPP loans the lender wanted to fund, or reject PPP loans for missing information or other reasons;
- d. generate, populate, and transmit promissory notes;
- e. submit applicant information to the SBA for approval of a loan;
- f. monitor the status of loan applications under review by SBA;
- g. send adverse action notices for declined loans;
- h. resubmit loans with corrected information if needed; and
- i. initiate payment of loan proceeds.

21. Womply also provided additional lender and customer support services. For example, Womply provided lenders with status updates through email and Slack communication channels that allowed lenders to understand the status of every loan that they were processing.

22. Womply did not provide underwriting services, submit loan applications to the SBA, or otherwise communicate with the SBA on behalf of a lender or borrower. Womply was not responsible for determining whether applicants qualified for PPP loans or whether the information applicants provided was accurate. Womply's lender partners retained all responsibility for ensuring that applicants qualified for PPP loans, underwriting PPP loans, submitting them to the SBA for approval, communicating with the SBA, and funding the loans.

23. Seven lenders and their partners, including Benworth Capital Partners LLC ("Benworth"), purchased access to the "PPP Fast Lane" Technology Platform and its integrated technology services from Womply. In 2021, Womply referred more than 2.8 million applicant submissions to lenders, leading to approximately 1.3 million funded PPP loan draws with a total principal amount of more than \$18.6 billion.

Womply's Agreements with Benworth

24. On February 25, 2021, Benworth and Womply entered into an Agent Agreement and Womply Developer Order Form (together, the "February Agreement").

25. On April 14, 2021, Benworth and Womply entered into the Amended and Restated PPP Loan Referral Agreement (the "Referral Agreement") and the Womply Developer Order Form (the "Order Form"). The Order Form also "includes and incorporates . . . the Womply Master

1 Developer Agreement located at <http://www.womply.com/mda>” (the “Master Developer
2 Agreement”; together with the Referral Agreement and Order Form, the “Agreements”). The
3 Agreements superseded the February Agreement. (Referral Agreement at 1; *id.* § 16; Order Form
4 at 1.)

5 26. Under the Referral Agreement, Benworth agreed to receive PPP loan application
6 referrals from Womply through the Technology Platform, and pay Womply Referral Fees “for
7 each loan originated by [Benworth] under the PPP resulting from a Referral” by Womply.
8 (Referral Agreement §§ 1.1, 2.2.)

9 27. Benworth also agreed that it “desires to engage in the origination, marketing,
10 underwriting, and funding of loans . . . funded and created under the U.S. Small Business
11 Administration (‘SBA’) Paycheck Protection Program”; “has the ability to independent evaluate,
12 process, close, service, liquidate, and litigate commercial loans”; and “retains ultimately
13 responsibility for all loan decisions, including approvals, underwriting, closings, disbursements,
14 due diligence, and loan servicing actions” (Referral Agreement at 1; *id.* § 8.)

15 28. Under the Order Form, Benworth agreed to receive access to Womply’s “PPP
16 Portfolio Management System” and receive additional technology services from Womply,
17 including “Tax Documents,” “Business Fraud Analytics,” “Bank Data,” “Identity,” “Account
18 Verification,” and “integrations with and/or links to certain third-party service providers
19 (including, without limitation, Plaid, Docusign, LexisNexis, Teslar, Inscribe, Ocrolus, AWS
20 Mechanical Turk, Mindee, Persona, Twilio, Sendgrid, etc.).” (Order Form at 1; *id.* § 1.2.) In
21 return Benworth agreed to pay Womply an “API Fee” of “\$250 per funded PPP loan,” and
22 “Technology Fees” calculated as a percentage of the Lender Processing Fees that Benworth
23 received from the SBA for providing PPP loans. (*Id.* at 1; *id.* § 2.)

24 29. Consistent with Womply’s role as a technology service provider, the Agreements
25 state in all capital letters that:
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1 WOMPLY MAKES NO REPRESENTATIONS OR
2 WARRANTIES ABOUT, AND HEREBY DISCLAIMS ALL
3 RESPONSIBILITY FOR, THE ACCURACY, LAWFULNESS,
4 OR COMPLETENESS OF ANY INFORMATION
5 ACCOMPANYING A REFERRAL (I.E., OUTPUT MADE
6 AVAILABLE VIA THE SERVICES). FOR THE AVOIDANCE
7 OF DOUBT, WOMPLY DOES NOT ENDORSE ANY
8 REFERRAL. [BENWORTH FL] ASSUMES SOLE
9 RESPONSIBILITY REGARDING WHETHER OR NOT ANY
10 REFERRAL SHOULD BE SENT TO THE SBA FOR REVIEW.

11 (Referral Agreement § 1.2; Order Form § 1.1.)

12 30. The Agreements also provide that “Womply is not a lender or lender service
13 provider as defined by the SBA.” (Referral Agreement § 1.3; Order Form § 1.3.)

14 31. Using Womply’s Technology Platform, Benworth funded, processed, and managed
15 305,790 Womply-referred PPP loans with a principal amount of more than \$4 billion.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed on November 30, 2022, at Reno, Nevada.

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Toby Scammell